



ORGANIZATION FOR THE PROTECTION
AND ADVANCEMENT OF SMALL
TELEPHONE COMPANIES

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June 1, 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Re: In the Matter of
Redevelopment of Spectrum to
Encourage Innovation in the
Use of New Telecommunications
Technologies
ET Docket No. 92-9

Dear Ms. Searcy:

Please find enclosed for filing the original and eleven copies of the Organization for the Protection and Advancement of Small Telephone Companies' comments in the above-captioned proceeding.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Lisa M. Zaina". To the right of the signature, the initials "MLD" are printed in a small, sans-serif font.

Lisa M. Zaina
General Counsel

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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**COMMENTS OF
THE ORGANIZATION FOR THE PROTECTION AND
ADVANCEMENT OF SMALL TELEPHONE COMPANIES**

OPASTCO
2000 K Street, NW
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Washington, DC 20006
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COMMENTS OF
THE ORGANIZATION FOR THE PROTECTION AND
ADVANCEMENT OF SMALL TELEPHONE COMPANIES

I. INTRODUCTION

The Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) hereby submits comments to the Federal Communications Commission (FCC or Commission) in response to the Commission's Notice of Proposed Rulemaking regarding the reallocation of certain frequency bands of the spectrum for new technologies.¹

OPASTCO is a national trade association of more than 400 independently owned and operated telephone companies serving rural areas of the United States and Canada. The members, which include both commercial companies and cooperatives, range in size

¹In the Matter of Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, ET Docket No. 92-9, Notice of Proposed Rulemaking, 57 FR 5993 (February 19, 1992). (NPRM)

from less than 100 to nearly 50,000 access lines and together serve almost two million customers.

Many of OPASTCO's member companies use fixed microwave facilities in the 1.85-2.20 GHz band in their local exchange networks. Microwave technology is used both to link the residents of small, disparate rural communities together and to link those communities to the rest of the nation. Therefore, small and rural local exchange carriers (LECs) are interested in this reallocation proceeding as incumbent licensees.

Additionally, as their communities' primary telecommunications service providers, OPASTCO's member companies are also very interested in the introduction of new telecommunications technologies, and the availability of those technologies in rural areas. For example, OPASTCO has participated in the FCC's ongoing Personal Communications Services (PCS) inquiry, stating that small and rural LECs should be permitted to provide PCS services in rural areas. Since the Commission has indicated that PCS will be one of the first services to use any emerging technologies bands, OPASTCO member companies are also interested in this proceeding as "new service" licensees.

In order to establish an area of the spectrum to be used for new services and technologies, the FCC has recommended that a sizable band of frequencies between 1 and 3 GHz be designated for this purpose. More specifically, the Commission has recommended

that 220 MHz between 1.85 and 2.20 GHz be reallocated according to the following four-point plan:

- 1) Within the specified frequency bands, new applications for fixed microwave use would be approved on a secondary basis only.
- 2) With the exception of state and local government licensees,
 - A) Incumbents would "share" the bands on a co-primary basis with new service providers for a specific period of time -- maybe 10 or 15 years.
 - B) After that time, today's incumbent licensees would acquire secondary status.
- 3) Incumbent state and local government licensees would maintain a co-primary status indefinitely, while new state and local applications would be approved on a secondary basis.
- 4) New providers would be allowed to negotiate for the use of incumbents' frequencies. Hopefully such a "buyout" plan would allow new providers to cover the costs of the incumbents' move to other bands or other technology entirely.²

²NPRM at paragraphs 22-27.

While OPASTCO supports the FCC's stated goal of making spectrum available for new services and technologies,³ its member companies also believe that the Commission should not too hastily mandate the costly migration of common carrier microwave services to more difficult portions of the spectrum. OPASTCO, therefore, respectfully suggests that the FCC modify its proposal by: 1) allowing common carrier licensees to retain their 2 GHz licenses on a co-primary basis indefinitely; 2) immediately beginning negotiations with the National Telecommunications and Information Administration (NTIA) for the transfer of adjacent spectrum to FCC jurisdiction; and 3) awarding tax certificates to common carriers that voluntarily transfer their microwave-based services to non-radio technology.

II. COMMENTS

OPASTCO firmly supports the Commission's conclusion that "emerging technologies bands should be created to foster the development and implementation of new technologies and services."⁴ OPASTCO member companies have themselves participated in the introduction of new radio-based services to consumers. For the past several years, small and rural LECs have been planning and constructing cellular systems in rural service areas (RSAs) all over the country. As these systems are turned on, residents of small towns and rural areas from Alaska to

³NPRM at paragraph 6.

⁴NPRM at paragraph 30.

and larger LECs. For many companies, these microwave facilities are the only telecommunications links between their local networks, or portions of those networks, and the rest of the world.

For other companies, common carrier microwave facilities provide valuable network reliability services. For example, one company in west-central Georgia maintains twelve DS-1 circuits, each one capable of carrying 24 channels of MTS traffic directly to AT&T. In the event that its cable trunks to AT&T are compromised, it can re-route its communities' long distance telephone traffic over a physically separate path. This type of redundancy is valuable to small telephone companies because microwave towers are easily accessible and do not require securing expensive rights-of-way for additional cable: often they can all sit on telephone company property.

In its NPRM the FCC recognizes that the "common carrier fixed microwave services operating in these bands provide important and essential services."⁶ Similarly, the Commission expresses its sensitivity "to the need to avoid any disruption of police, fire and other public safety communications." However, while the FCC correctly proposes to exempt state and local government public safety users from mandatory migration from the 2 GHz band,⁷ it declines to do so for local telephone companies.

⁶NPRM at paragraph 19.

⁷NPRM at paragraph 25.

OPASTCO believes that the common carrier services provided by its small, rural member companies over fixed microwave facilities are essential to their communities. Rural consumers greatly benefit from the economic connectivity and reliability they provide. As pointed out above, in some cases entire towns depend on those facilities to communicate with the rest of the world, while in others valuable network redundancy is provided at reasonable cost. OPASTCO, therefore, respectfully requests that the Commission allow current common carrier licensees to continue to operate their 2 GHz fixed microwave facilities on a co-primary basis indefinitely.

B. The Commission Should Negotiate with NTIA for the Reallocation of Frequencies in the 1710 to 1850 MHz Band for Commercial Uses

The Commission indicates that it only considered for reallocation spectrum already primarily under its jurisdiction; that is, it did not consider any spectrum currently allocated to the federal government, which is under the jurisdiction of the NTIA.⁸

While OPASTCO recognizes the practical and legal expediency of this approach, it feels that the FCC's decision to target frequencies around 2 GHz -- bands that are heavily used by common carriers, private carriers, and all manner of businesses and industries -- necessitates that it increase its universe of potential frequencies, either to more easily relocate incumbent 2

⁸NPRM at paragraph 11, footnote 11.

GHz users, or to make up for 2 GHz spectrum that will be used by exempted licensees.

The frequencies in the adjacent 1710 to 1850 MHz band (which are under the jurisdiction of the NTIA) share many of the same characteristics as those in the 2 GHz band favored by the Commission. In fact, these adjacent frequencies appear to satisfy four of the five factors the FCC identifies as critical to the reallocation decision-making process: cost of equipment, amount of spectrum available, feasibility of relocation, and international developments. The only factor they do not satisfy, of course, is that they be non-government.⁹

OPASTCO believes that it would be in the public interest to pursue negotiations with NTIA for the transfer of as many frequencies as possible to FCC jurisdiction. Any bands that could be made available would certainly help alleviate the Commission's current predicament. OPASTCO further believes that it is not necessary for the FCC to wait for legislative action to begin this process: in fact, the process should begin immediately, concurrent with this "emerging technologies" proceeding.

C. Tax Certificates Should be Awarded to Those Who Voluntarily Move to Non-Radio Technology

In the event that current users of 2 GHz frequencies, including common carriers such as OPASTCO's member companies, decide to voluntarily move their services to non-radio

⁹NPRM at paragraph 10.

alternative media as part of an agreement to surrender their license to another entity, OPASTCO believes that the FCC should consider awarding tax certificates to the departing licensees.

Although the FCC correctly points out that, from a technical standpoint, there are alternatives to fixed microwave such as fiber, cable, and satellite communications,¹⁰ OPASTCO believes that many of its member companies choose microwave technology for other reasons: it is the most economic transmission medium for the services it provides in many instances. Financial incentives such as tax certificates, when coupled with compensation from new licensees, may provide the impetus for more incumbent licensees to seek alternative technologies. License transfers under this scenario would produce a "win-win" situation: incumbent licensees would have an economic alternative to their microwave facilities, and spectrum would then be freed for new technologies -- both providing public benefits.

OPASTCO stresses that it endorses the use of tax certificates only to encourage the voluntary emigration of common carrier licensees. OPASTCO believes many of these licensees have no viable alternative to their microwave facilities.

III. CONCLUSION

OPASTCO supports the FCC in its effort to designate an "emerging technologies band" of the spectrum. OPASTCO does, however, recommend the following changes to the Commission's

¹⁰NPRM at paragraph 17.

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III. CONCLUSION

OPASTCO supports the FCC in its effort to designate an "emerging technologies band" of the spectrum. OPASTCO does, however, recommend the following changes to the Commission's

¹⁰NPRM at paragraph 17.

proposal as outlined in the NPRM: 1) allow common carrier licensees to retain their 2 GHz licenses on a co-primary basis indefinitely, 2) begin negotiations with NTIA for the transfer of adjacent spectrum to FCC jurisdiction, and 3) award tax certificates to common carriers that voluntarily transfer their microwave-based services to non-radio technology.

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROTECTION AND ADVANCEMENT OF
SMALL TELEPHONE COMPANIES**

By: *Lisa M. Zaina* MLD
Lisa M. Zaina
General Counsel

OPASTCO
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June 1, 1992

CERTIFICATE OF SERVICE

I, Matthew L. Dosch, hereby certify that a copy of OPASTCO's comments was sent on this, the 1st day of June, 1992, by first class United States mail, postage prepaid, to those listed below.

A handwritten signature in cursive script, reading "Matthew L. Dosch", written over a horizontal line.

Matthew L. Dosch

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